

Force. (As amended June 20, 1949, ch. 225, § 2, 63 Stat. 202.)

AMENDMENTS

1949—Act June 20, 1949, cited to text, amended section so as to place Reserve personnel of the Army and Air Force who are killed or disabled, as the result of injury, while performing active or inactive training duty for any period of time, on the same basis as Regular and Reserve personnel serving on extended active duty for periods in excess of thirty days.

APPROPRIATIONS

Section 6 of act June 20, 1949, cited to text, provided that: "There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [section 456 of this title]."

§ 456—1. Same; effective date of new benefits under section 456 of this title; accrual of back pay, etc.; deduction of previous monetary benefits.

The provisions of section 456 of this title shall be effective from August 14, 1945, but no back pay, pension, compensation, death gratuity, or retirement pay shall be held to have accrued as the result of the enactment of said section for any period prior to such date: *Provided*, That in the case of persons electing to receive the benefits of said section, the amount of any monetary benefits received for any period subsequent to August 14, 1945, under any provisions of law providing benefits for disability or death incident to the service, shall be deducted from the monetary benefits provided for herein. (June 20, 1949, ch. 225, § 4, 63 Stat. 202.)

CODIFICATION

Similar provisions relating to the Navy and the National Guard are set out as section 855c-2 of Title 34, Navy, and section 160b of Title 32, National Guard, respectively.

§ 456—2. Same; benefits unaffected.

Nothing contained in section 456 of this title shall be construed to deprive any person of any benefits to which he was entitled prior to its enactment. (June 20, 1949, ch. 225, § 5, 63 Stat. 202.)

CODIFICATION

Similar provisions relating to the Navy and National Guard are set out as section 855c-3 of Title 34, Navy, and 160c of Title 32, National Guard, respectively.

Chapter 21.—COMMISSIONED OFFICERS

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 (a) Effective date.
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 (c) Permanent recommended list; nomination upon vacancy in grade.
 (d) Ratio of promotion list officers to officers selected; time of selection; term of service as colonel.
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 (a) Effective date.
 (b) Selection and recommendation by selection board; list of names for consideration.
 (c) Permanent recommended list; nomination upon vacancy in grade.
 (d) Ratio of promotion list officers to officers selected; time of selection; term of service as brigadier general.
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 (d) Officers included in selection board lists.
- 559j. Women's Army Corps; establishment of promotion list; promotion-list officers [New].
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580. Removal of officers from active list of Regular Army or Regular Air Force [New].

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581. Selection board; composition; annual meetings; duties [New].
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 (a) Transmission of records to Board of Review; notification of reference; appearance; transmission of findings to Secretary.
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GENERAL PROVISIONS

§ 481. Authorized commissioned strength of Army; exception to limitation.

There is authorized a strength of fifty-one thousand active list commissioned officers in the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, and any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers. (Aug. 7, 1947, ch. 512, title V, § 501, 61 Stat. 883.)

SIMILAR PROVISIONS

Similar provisions were contained in the former acts cited to text in the main volume.

§ 481b. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

Section is now covered by section 481 of this title.

§ 482. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), 61 Stat. 886.

Section is now covered by section 506 of this title.

§§ 482b, 482c. Repealed. Aug. 7, 1947, ch. 512, title V, §§ 503 (d) (2), 504 (f), 61 Stat. 586, 588.

Section 482b is now covered by section 559 of this title.

Section 482c is now covered by section 559e of this title.

§ 483. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), 61 Stat. 886.

Section is now covered by section 506a of this title.

§ 484. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 484a. Original appointments to be probationary.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 486. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 486a. Bachelor of science degree on graduation.

The Superintendent of the United States Military Academy, may, under such rules and regulations as the Secretary of the Army may prescribe, confer the degree of bachelor of science upon all graduates of the United States Military Academy from and after the date of the accrediting of said Academy. On and after the date of the accrediting of the said Academy the superintendent of the Academy may, under such rules and regulations as the Secretary may make, confer the degree of bachelor of science upon such other living graduates of the Academy as shall have met the requirements of the Academy for such degree. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1949, ch. 393, § 13, 63 Stat. 559; Aug. 18, 1949, ch. 476, 63 Stat. 614.)

AMENDMENTS

1949—Act Aug. 4, 1949, cited to text, amended section by making it inapplicable to the Coast Guard.

1949—Act Aug. 18, 1949, cited to text, amended section to remove any reference to the Association of American Universities by referring to "the date of accrediting of said academy".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

COAST GUARD

Provisions relating to the Coast Guard Academy are now covered by section 184 of Title 14, Coast Guard.

§ 487. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), 61 Stat. 886.

Section is now covered by section 506 of this title.

§§ 488–490, 491a–491c.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 499. Disabled emergency officers retained in service during treatment.

Notwithstanding any other provision of law, the President is authorized and directed to retain in service disabled officers, warrant officers, and flight officers of the Army and the Air Force of the United States until their treatment for physical reconstruction has reached a point where they will not be further benefited by retention in a military hospital or in the military service. (June 19, 1948, ch. 511, 62 Stat. 489.)

CODIFICATION

A similar provision to this section was contained in acts June 3, 1916, ch. 134, § 127a, as added June 4, 1920, ch. 227, subch. I, § 51, 41 Stat. 786, and was omitted from this section as executed.

§ 499a. Service credits for officers recalled to active-duty status for medical observation, physical evaluation, or retiring-board proceedings.

All periods of service of any officer of the Army of the United States or the Air Force of the United States who was called or recalled to active duty in the armed forces of the United States between April 1, 1944, and May 1, 1948, for medical observation or treatment, physical evaluation, or retiring-board proceedings for the purpose of determining the eligibility of such officer to receive disability or retirement pay benefits shall be, and are, deemed to be active duty in the armed forces of the United States to the same extent as though such officer had been called or recalled to active duty without limitation as to purpose, and such officer shall be entitled to credit such service performed prior to May 1, 1948, for all purposes. (Oct. 10, 1949, ch. 661, § 1, 63 Stat. 737.)

§ 499b. Active-duty status of officers admitted to service hospitals while on terminal leave; time of application for benefits; limitation on monetary benefits.

Any officer of the Army of the United States or the Air Force of the United States who was admitted into a service hospital while on terminal leave prior to October 1, 1947, who reverted to inactive status prior to release from such hospitalization, and who has not subsequently been retired or certified to the Veterans' Administration for retirement benefits, shall be deemed to have been on active duty, for all purposes, until the date of the release from such hospitalization: *Provided*, That such an officer or his estate apply for the benefits of this section within two years from October 10, 1949, and such application is approved by the cognizant Secretary: *And provided further*, That in the case of a person whose application for the benefits of this section and section 499a of this title is approved, the amount of any monetary benefits received by him or his estate for any period prior to release from such hospitalization under any provisions of law providing benefits for disability or death incident to the service, shall be deducted from the monetary benefits provided for herein. (Oct. 10, 1949, ch. 661, § 2, 63 Stat. 737.)

§ 505b. Additional authorization to appoint commissioned officers through grades of second lieutenants to majors; qualifications and conditions for appointment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 505c. Method of determination of appointive grade; computation of service credits.

* * * * *

(c) Persons appointed in the Medical Service Corps shall be appointed in grades of second lieutenant, first lieutenant, captain, or major according to the periods of service with which they are credited in the same manner as set forth in paragraph (a) of this section for persons appointed in arms and

services of the Regular Army, the officers of which are on the promotion list. (As amended Aug. 4, 1947, ch. 459, title I, § 105 (a), 61 Stat. 735.)

AMENDMENTS

1947—Former subsecs. (c) and (d), relating to Medical Administrative Corps and Pharmacy Corps, respectively, were struck out, and present subsec. (c) substituted therefor, by act Aug. 4, 1947, cited to text.

EFFECTIVE DATE OF 1947 AMENDMENT

Opening par. of section 105 of act Aug. 4, 1947, cited to text, provided that the amendments to this section and section 505d of this title, made by such act, should become effective on the date of enactment of such act, which was Aug. 4, 1947.

REPEALS

Repeal of laws inconsistent with act Aug. 4, 1947, cited to text, see note under section 156a of this title.

§ 505d. Age limitations governing appointment.

(b) in the Medical Corps, the Dental Corps, the Veterinary Corps, or as a chaplain, if he would upon appointment receive credit for twenty or more years' service under section 505c of this title; or

(c) In the Medical Service Corps if he would upon appointment receive credit for twenty-three or more years' service under section 505c of this title. (As amended Aug. 4, 1947, ch. 459, title I, § 105 (b), 61 Stat. 736.)

AMENDMENTS

1947—Subsec. (b) amended by act Aug. 4, 1947, cited to text, which struck out "the Pharmacy Corps" following "Veterinary Corps,".

Subsec. (c), which formerly related to the Medical Administrative Corps, was struck out and present subsec. (c) substituted therefor, by the same act.

EFFECTIVE DATE OF 1947 AMENDMENT

Effective date of amendment by act Aug. 4, 1947, cited to text, see note under section 505c of this title.

REPEALS

Repeal of laws inconsistent with act Aug. 4, 1947, cited to text, see note under section 156a of this title.

§ 505e. Date of nomination as date of appointment.

For the purpose of administering the provisions of sections 481, 505–505d, 552a and 552c of this title, the date of nomination by the President if the Senate is in session, or if the Senate is in recess the date of a recess appointment by the President, shall be considered as the date or time of appointment in determining eligibility for appointment, permanent grade in which appointed, date of rank in such grade, period of service to be credited under section 505c of this title, and eligibility for promotion of each person appointed as a commissioned officer of the Regular Army under the provisions of sections 481, 505–505d, 552a and 552c of this title: *Provided*, That no person appointed under the provisions of said sections shall be entitled, by reason of such appointment, to any pay or allowances for any period prior to the date of acceptance of such appointment. (Dec. 28, 1945, ch. 601, § 9, as added May 15, 1947, ch. 67, 61 Stat. 95.)

EFFECTIVE DATE

Section 1 of act May 15, 1947, cited to text, provided in part that this section should become effective as of Dec. 28, 1945.

§ 506. Regular Army officers—(a) Appointment in grade.

In addition to the officers permanently appointed in general officer grades above that of major general (authorized by other provisions of law), Regular Army officers shall be permanently appointed by the President, by and with the advice and consent of the Senate, in the Regular Army in the commissioned officer grades of major general, brigadier general, colonel, lieutenant colonel, major, captain, first lieutenant, and second lieutenant.

(b) General officers; appointment without specification of branch, arm, or service.

Officers holding permanent appointments in any general officer grade in the Regular Army shall be known as general officers of the Regular Army. Appointments of officers in general officer grades in the Regular Army shall be made in the Medical Corps, in the Dental Corps, in the Veterinary Corps, and as chaplains; but otherwise they shall be made in the Regular Army without specification of branch, arm, or service. When the appointments are in the Medical Corps, the Dental Corps, the Veterinary Corps, and as chaplains, general officers of the Regular Army may be specifically referred to as general officers, Medical Corps, Regular Army; general officers, Dental Corps, Regular Army; general officers, Veterinary Corps, Regular Army; and general officers, chaplains, Regular Army.

(c) Appointment without specification of branch, arm, or service.

Appointments of officers in commissioned officer grades below that of brigadier general in the Regular Army shall be made in the Air corps, in each of the several corps of the Medical Department, as chaplains, in the Women's Army Corps, and as professors of the United States Military Academy; but otherwise they shall be made in the Regular Army without specification of branch, arm, or service. Those appointed without specification of branch, arm, or service shall be assigned (and may from time to time be transferred and reassigned) by the Secretary of the Army in the several branches, arms, and services of the Regular Army (excluding the Air Corps, the several corps of the Medical Department, the Women's Army Corps, and the chaplains) according to the professional qualifications of the officers concerned and the needs of the branches, arms, and services: *Provided*, That assignments, transfers, and reassignments of officers of the Corps of Engineers to and from duties involving the civil functions of the Corps of Engineers shall be made only by approval of the Secretary of the Army upon the recommendation of the Chief of Engineers.

(d) Determination of authorized active commissioned officer strength.

The authorized active list commissioned officer strength of the Air Corps of the Regular Army; of each of the several corps of the Medical Department of the Regular Army; of the Chaplains of the Regular Army; of the Women's Army Corps of the Regular Army; and of each of the several corps, arms, and services of the Regular Army in which officers are assigned (as distinguished for those in which

officers are appointed); shall, from time to time, be determined by the Secretary of the Army (within the authorized active list commissioned officer strength of the Regular Army and within any limitations provided by laws enacted after January 1, 1947.)

(e) Detail for duty.

Under regulations prescribed by the Secretary of the Army, officers appointed or assigned in one branch, arm, or service, may be detailed in, or for duty with, any other branch, arm, or service.

(f) Reappointment without specification of branch of service.

Persons now vested with office in the Regular Army in the several commissioned officer grades under appointments as officers in the several branches, arms, and services (excluding those appointed in the Air Corps, the several corps of the Medical Department, as Chaplains, and as professors of the United States Military Academy) shall be deemed to hold such office under appointments in the Regular Army without specification of branch, arm, or service and to be assigned in the branch, arm, or service specified in their appointments. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 502 (a-f), 61 Stat. 883; June 12, 1948, ch. 449, title I, § 104 (d) (1) (2), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (c) amended by act June 12, 1948, § 104 (d) (1), cited to text, to make subsection applicable to the Women's Army Corps of the Regular Army.

Subsec. (d) amended by act June 12, 1948, § 104 (d) (2), cited to text, to make subsection applicable to the Women's Army Corps of the Regular Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

EFFECTIVE DATE

Section 502 (g) of act Aug. 7, 1947, cited to text, provided: "This section shall not become effective until December 31, 1947, for the purpose during the interim of administering the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended [sections 505-505d and 552c of this title], and other Acts or provisions of law providing for the appointment of persons as additional officers of the Regular Army; but otherwise this section shall be effective on the date of enactment of this Act [Aug. 7, 1947]."

SAVINGS CLAUSE

Section 523 of act Aug. 7, 1947, cited to text, provided that: "Nothing contained in this title [sections 81, 234, 481, 517, 506-506d, 559-559i, 941a, 971b, 971c, and 1079a of this title] shall be operated to reduce the retired grade or retired pay of any officer heretofore retired."

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

TEMPORARY APPOINTMENT OF OFFICERS DURING PRESENT EMERGENCY

Res. Sept. 22, 1941, set out above in this note, was repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, with the provision that it should remain in full force and effect until that date and with the proviso "That so long as the Secretary

of the Army deems it necessary in the interest of national defense, each man who completed a course of medical instruction at Government expense in a university, college or other similar institution of learning, pursuant to the provisions of the Act of February 6, 1942 (56 Stat. 50, ch. 40), as amended [note to section 535g of this title], shall not be relieved from active duty until the completion of two years of active service as a commissioned officer, exclusive of any periods during which he served as an interne".

§ 506a. General officers of the Regular Army—(a) Authorized numbers.

There is authorized on the active list of the Regular Army a strength of general officers of the Regular Army (exclusive of the numbers of general officers authorized for the several corps of the Medical Department and the chaplains) equal to three-fourths of 1 per centum of that number which equals the authorized active list commissioned officer strength of the Regular Army less the authorized active list commissioned officer strengths of the several corps of the Medical Department and the chaplains, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Medical Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Dental Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army as chaplains equal to one-half of 1 per centum of the authorized active list commissioned officer strength of the chaplains of the Regular Army, of which not more than 50 per centum may be in permanent grade above that of brigadier general: *Provided*, That there shall be no additional appointments in any permanent grade above that of major general: *Provided further*, That the percentages above specified shall not result in more than three hundred and fifty-seven officers on the active list of the Regular Army in permanent grade above that of colonel, of which there shall be not more than sixteen in the Medical Corps, four in the Dental Corps, one in the Veterinary Corps, two chaplains, and three hundred and thirty-four in the Army, exclusive of Medical Department and chaplains; and of such total number there shall be not more than one hundred and seventy-eight on the active list of the Regular Army in permanent grade above that of brigadier general and of such one hundred and seventy-eight there shall be not more than eight in the Medical Corps, none in the Veterinary Corps, two in the Dental

¹ So in original. Probably should read "permanent".

Corps, one chaplain, and one hundred and sixty-seven in the Army, exclusive of Medical Department and chaplains; and of the foregoing total number of permanent general officers of the Regular Army, unless a National emergency is declared after August 7, 1947, and before July 1, 1948, there shall, after such date, and until a National emergency is thereafter declared, be not more than forty-four serving in any grade above that of major general as specifically limited in section 506b of this title: *Provided further*, That of the three hundred and thirty-four Regular Army officers authorized in permanent grade above that of colonel in the Army, exclusive of Medical Department and chaplains, specified in the preceding proviso, there shall be in the Army less the Air Corps and in the Air Corps, respectively, not more than such numbers as are derived by allotments to each, proportional to the respective strengths authorized for the Army promotion list and the Air Corps promotion list; and of each such allotment there shall be not more than 50 per centum in permanent grade above that of brigadier general: *And provided further*, That, whenever the application of the percentages specified in this section results in a fraction of a whole number, fractions of one-half and greater shall be counted as a whole number and fractions of less than one-half shall be disregarded: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

(b) Seniority list.

There shall be maintained a seniority list of the general officers of the Regular Army. The first name on the list shall be that of the general officer most senior in permanent general officer grade; the second name on the list shall be that of the senior next below the first; the third on the list shall be that of the senior next below the second; and so on throughout the list.

(c) Date of rank.

(1) The date of rank of an officer appointed in the grade of brigadier general in the Regular Army shall be the date of appointment: *Provided*, That, if at time of appointment he holds office in temporary grade of brigadier general or any higher temporary grade, his date of rank shall be the date of rank held in such temporary grade, or formerly held in the temporary grade of brigadier general if appointed to higher temporary grade from that grade; but in no event shall such date of rank be earlier than that of the junior officer in the permanent grade of brigadier general in the Regular Army.

(2) The date of rank of an officer appointed in the grade of major general in the Regular Army shall be the date of rank held by such officer in the grade of brigadier general in the Regular Army: *Provided*, That, if at time of appointment he does not hold

office in permanent grade of brigadier general, but does hold office in the temporary grade of brigadier general or higher temporary grade, his date of rank shall be the date of rank held in such temporary grade, or formerly held in the temporary grade of brigadier general if appointed to higher temporary grade from that grade: *And provided further*, That such date of rank shall not be earlier than that of the junior officer in the permanent grade of major general in the Regular Army. (Aug. 7, 1947, ch. 512, title V, § 503 (a-c), 61 Stat. 885.)

EFFECTIVE DATE

Section 503 (d) of act Aug. 7, 1947, cited to text, provided in part that this section should be effective on Aug. 7, 1947.

APPOINTMENT OF OMAR BRADLEY AS PERMANENT GENERAL

Act June 26, 1948, ch. 677, 62 Stat. 1052, provided in part:

"That the President is authorized, by and with the advice and consent of the Senate, to appoint in the Regular Army one officer in the permanent grade of general from among any officers on the active list of the Regular Army who served in the temporary grade of general from March 29, 1945, to the present date, and who successfully commanded an Army group composed of as many as four Armies in the field against the enemy from August 1, 1944, to August 15, 1945.

"Any officer appointed under the provisions of this section who hereafter may be retired, shall be entitled to have his name placed on the retired list with the highest grade or rank held by him while on the active list and shall be entitled to receive the same pay and allowances while on the retired list as authorized by law for officers on the active list serving in the grade of general."

§ 506b. General officers—(a) Assignments or details.

General officers holding office in any general officer grade, under permanent or temporary appointments, including general officers of the Army of the United States, or any component thereof, serving on active Federal duty, may be assigned or detailed to any duties or positions under regulations prescribed by the President.

(b) Positions carrying rank of general and lieutenant general.

The President is authorized, from time to time, to designate certain positions of importance and responsibility which shall carry the rank of general and lieutenant general, respectively, and to designate and assign to such positions any of the general officers holding office in the grade of major general or higher grade, under permanent or temporary appointments (including general officers of the Army of the United States and general officers of each of the components thereof who may be serving on active Federal duty), and such officers, so designated and assigned, shall have the rank, title, pay, and allowances of a general or lieutenant general, as the case may be, while so serving, without vacation of their permanent grade, and, upon termination of such an officer's service in any such position he shall resume his permanent grade or whatever temporary grade he may, at that time, be entitled to hold: *Provided*, That such officers shall have the rank, title, pay, and allowances of a general or lieutenant general under the provisions of this section only when appointed in such positions by the Presi-

dent, by and with the advice and consent of the Senate: *Provided further*, That the number of such positions and the number of officers serving in such positions shall not exceed 15 per centum of the total number of general officers serving on active Federal military duty (including those holding office under temporary appointments and general officers of the Army of the United States, and the several components thereof), and, of such number not more than 25 per centum may be positions carrying the rank of general: *Provided further*, That, unless a national emergency is declared after August 7, 1947, and before July 1, 1948, there shall, after such date, and until a national emergency is thereafter declared, be no additional officers appointed in any grade above that of general and the total number of officers serving on active duty in grades above major general under this section or any other provision of law, shall not exceed the following: Forty-four in grade of lieutenant general or higher grade, of which not more than nine shall be above the grade of lieutenant general, and of the nine above the grade of lieutenant general, one shall be the Chief of Staff of the Army and one shall be the officer occupying the corresponding position of the Army Air Forces, and of the remaining seven above the grade of lieutenant general there shall be not more than four in the Army less the Air Corps and not more than three in the Air Corps and of the total forty-four in grade of lieutenant general or higher, there shall be not more than twenty-seven in the Army less the Air Corps and not more than seventeen in the Air Corps; except that there may be a general officer, either of the Air Corps or other than of the Air Corps, appointed as Chief of Staff to the President, and such officer, unless he be entitled to rank, title, or grade, and the pay and allowances of a general, or of a higher grade under some other provision of law, shall, when appointed to such position by and with the advice and consent of the Senate, have the rank, title, pay, and allowances of a general and he shall be additional to the numbers hereinbefore set forth in this proviso: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

(c) Membership on Military and Naval Staff Committee of the United Nations.

Within the limitations as to numbers in grade prescribed in this Act, one officer of the Navy, including the Marine Corps, one officer of the Army less the Air Corps, and one officer of the Air Corps, when designated by the President, by and with the advice and consent of the Senate, as senior members of the Military and Naval Staff Committee of the United Nations shall, while so serving, be entitled to the rank, pay, and allowances of a vice admiral or lieutenant general, as the case may be, and, in addition

thereto, a personal money allowance of \$2,200 per year.

(d) Grade on retirement.

Any officer of the Regular Army who may be retired while serving in accordance with the provisions of subsection (b) or (c) of this section, or subsequent to such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest such grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in grade or rank on the retired list: *Provided further*, That the President, by and with the advice and consent of the Senate, may in his discretion extend the privilege herein granted to officers heretofore or hereafter retired, who served in the grade of general or lieutenant general between December 7, 1941, and June 30, 1946. (Aug. 7, 1947, ch. 512, title V, § 504 (a-d), 61 Stat. 886.)

CONTINUATION OF CERTAIN OFFICERS IN GRADES OF GENERAL AND ADMIRAL UNTIL JULY 1, 1950

Section 2 of act June 28, 1948, ch. 696, 62 Stat. 1069, provided that: "In addition to the number of officers authorized to serve after July 1, 1948, on the active list in the grade of General in the Army and Admiral in the Navy pursuant to sections 504 and 413 of the Officer Personnel Act of 1947 [this section and section 211d of Title 34], officers now on the active list of the Army in the grade of general whose dates of rank in such grade are between March 8, 1945, and April 15, 1945, inclusive, and of the Navy in the grade of admiral whose dates of rank in such grade are prior to April 4, 1945, may, at the discretion of the President, be continued in such grades until July 1, 1950, unless sooner retired and the total number of officers authorized by these sections to have the grade, rank, title, pay, and allowances of vice admiral or admiral and lieutenant general or general, is temporarily increased accordingly: *Provided*, That the provisions of this section in no way affect the status of the officer who may be serving as Chief of Staff in the Army on the effective date of this Act [June 28, 1948]."

RETIREMENT LAWS INAPPLICABLE TO GENERALS OF THE ARMY; EXTRA MEMBERS

Section 1 of act June 28, 1948, ch. 696, 62 Stat. 1069, provided:

"That the laws requiring retirement of Regular Army and Regular Air Force officers because of age shall not apply to officers of the Regular Army or Regular Air Force appointed in the grade of General of the Army pursuant to the Act of March 23, 1946 (60 Stat. 59) [set out as a note under section 1192 of Appendix to Title 50]. The President, may, in his discretion, upon the request of the officer concerned, restore to the active list of the Regular Army or Regular Air Force any officer of the Regular Army or Regular Air Force on the retired list who was appointed in the grade of General of the Army pursuant to the Act of March 23, 1946 (60 Stat. 59) [set out as a note under section 1192 of Appendix to Title 50].

"Officers appointed in the grade of General of the Army pursuant to the Act of March 23, 1946 (60 Stat. 59), shall not be counted within the limited number of officers authorized to be serving on active duty in grades above lieutenant general as provided in section 504 of the Officer Personnel Act of 1947 (Public Law 381, Eightieth Congress [this section]) unless they be serving as Chief of Staff or in command of any territorial or tactical subdivision of the Army or the Air Force."

CROSS REFERENCES

Pay and allowances, see section 107 of Title 37, Pay and Allowances.

§ 506c. Additional Regular Army officers—(a) Appointment.

Within the authorized active list commissioned officer strength of the Regular Army, the President, by and with the advice and consent of the Senate, is authorized to appoint additional officers in the Regular Army in commissioned officer grades as hereinafter in this section prescribed, subject to the conditions and limitations set forth.

(b) Qualifications.

All persons appointed officers in the Regular Army pursuant to this section shall be citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military service, and shall have such other qualifications as may be prescribed by the Secretary of the Army.

(c) Credit for service.

For the purpose of determining grade, position on promotion list, permanent grade seniority, and eligibility for promotion, each person initially appointed and commissioned an officer in the Regular Army shall, at time of appointment, be credited with an amount of service equivalent to the total period of active Federal service performed after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but in no event shall any person be credited for such purposes with more than five years of such service. In addition to the foregoing and for the purposes hereinabove specified, each person appointed and commissioned an officer of the Medical Corps of the Regular Army shall, at time of appointment, be credited with an amount of service equal to four years; each person appointed and commissioned an officer of the Dental Corps, each person appointed a Chaplain of the Regular Army, and each person appointed and commissioned an officer of the Regular Army with a view to assignment in the Judge Advocate General's Department, shall, at time of appointment, be credited with an amount of service equal to three years; each person appointed and commissioned an officer of the Veterinary Corps shall, at time of appointment, be credited with an amount of service equal to two years; and each person appointed and commissioned an officer of the Medical Service Corps who at the time of appointment holds a degree of doctor of philosophy or comparable degree recognized by the Surgeon General in a science allied to medicine may, subject to regulations as prescribed by the Secretary of the Army, be credited at the time of appointment with an amount of service equal to three years. Notwithstanding the foregoing or any other provisions of law, no person formerly a cadet at the United States Military Academy may be appointed and commissioned an officer of the Regular Army prior to the date on which his classmates at the United States Military Academy are graduated and appointed officers; and any person who was a cadet at, but did not graduate from, the United States Military Academy, shall not, upon appoint-

ment as a commissioned officer of the Regular Army, be credited with a period of service greater than the service credited to any member of his class at the Academy whose service in the Army has been continuous since graduation.

(d) Determination of appointive grade.

Upon the basis of service credited as provided in subsection (c) of this section, the commissioned officer grade in which a person shall be appointed shall be determined as follows: Persons who have no service credit and those who are credited with less than three years' service shall be appointed in the grade of second lieutenant; persons who are credited with three or more years' service, but less than seven years' service, shall be appointed in the grade of first lieutenant; persons who are credited with seven or more years' service shall be appointed in the grade of captain. The names of such persons so appointed shall be placed upon the applicable promotion list immediately below those officers of the same grade having the same or next greater period of service.

(e) Age limitations.

No person shall be initially appointed in the Regular Army in any commissioned officer grade under the provisions of this section when the length of time from date of birth to date of appointment exceeds: For all persons except those hereinafter specifically mentioned, twenty-seven years; for persons appointed in the Medical Corps, the Dental Corps, and the Veterinary Corps and persons appointed with view to assignment in the Judge Advocate General's Department, thirty-two years; for persons appointed in the Medical Service Corps, thirty years; for persons appointed as chaplains, thirty-four years: *Provided*, That for any person, the number of years from date of birth to date of appointment hereinabove specified shall, respectively, be increased by the number of years, months, and days, of active Federal service performed by such person after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but not by more than five years: *And provided further*, That until June 30, 1953, the Secretary of the Army may, in his discretion, waive such maximum age limitations for any person who served in the armed forces of the United States prior to September 2, 1945.

(f) Appointment of graduates of Military Academy.

Notwithstanding any other provision of law, when any cadet of the United States Military Academy has completed the prescribed course of instruction, he may upon graduation be promoted and appointed a second lieutenant in the Regular Army, and whenever any such appointment would result in there being a number of active list commissioned officers in the Regular Army in excess of the authorized active list commissioned officer strength, such strength shall be temporarily increased as necessary to authorize such appointment. The graduates of each class shall be assigned relative seniority among themselves under regulations prescribed by the Secretary of the Army and no cadet upon graduation,

promotion, and appointment shall be given any service credit under the provisions of subsection (c) of this section.

(g) Effective date; interim appointments; certain service credits.

The provisions of this section shall become effective December 31, 1947. Until December 31, 1947, initial appointments of persons as commissioned officers in each of the several arms and services of the Regular Army shall continue to be made in accordance with the provisions of sections 505–505d and 552c of this title, and other provisions of law authorizing appointments of persons as additional officers of the Regular Army, but effective December 31, 1947, no further appointments shall be made under the provisions of said sections. Effective December 31, 1947, each commissioned officer of the Medical Corps who on that date has less than four years' service credit, each commissioned officer of the Dental Corps, each Regular Army Chaplain, and each commissioned officer of the Judge Advocate General's Department, who on that date has less than three years' service credit, and each commissioned officer of the Veterinary Corps, who on that date has less than two years' service credit, shall, for promotion, seniority, and promotion-list-position purposes, be credited on that date with four years' service, three years' service, and two years' service, respectively. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 506 (a–g), 61 Stat. 890.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 506d. Army officers—(a) Appointment to temporary grades.

Whenever the number of Regular Army officers holding office under permanent appointments in the grades of major general and brigadier general is less than the number authorized in these grades and whenever the number of Regular Army officers of any promotion list, holding office under permanent appointments in the grades of colonel, lieutenant colonel, major, captain, and first lieutenant, respectively, is less than the number authorized in these grades in such promotion list, the additional number authorized in these several grades may be filled by the temporary appointment of qualified officers under the provisions of subsection (c) of this section.

(b) Temporary appointment of officers in the Army of the United States.

Whenever under authorization from time to time made by the Congress the total number of officers serving on active duty (Regular Army officers and all officers of the Army of the United States or any component thereof ordered into active military service for extended Federal service in excess of thirty days) exceeds the authorized active list commissioned officer strength of the Regular Army, the Secretary of the Army shall determine the requirements in each of the several commissioned grades based upon the total number of officers so serving

on active duty and the tasks being performed by the Army and such requirements in each of such grades may be filled by the temporary appointment of qualified officers under the provisions of subsection (c) of this section: *Provided*, That unless a national emergency is declared after August 7, 1947, and before July 1, 1948, after such date and until a national emergency is thereafter declared, the total number of officers serving on active duty in grades above major general under any provision of law shall not exceed the limitation specifically set forth in section 504 of this title.

(c) Permanent grade unaffected by temporary appointment to higher grade.

Within the limitations specified in subsections (a) and (b) of this section, any commissioned officer of the Regular Army, or of any of the Reserve components of the Army of the United States serving on active Federal duty, may be appointed in any temporary grade equal to or higher than his permanent grade without vacating his permanent appointment or any temporary appointment held by him under this or any other provision of law, and any such officer now holding an appointment in any temporary grade equal to or higher than his permanent grade may be continued therein as though he had been appointed thereto under the provisions of this section. Action under this subsection shall be taken on a fair and equitable basis, regard being given to seniority, age, and selection based upon ability and efficiency under regulations prescribed by the Secretary of the Army. The President may, in his discretion, from time to time, in accordance with the needs of the service, adjust dates of rank in temporary grades.

(d) Active duty of Reserve officers.

To the extent provided from time to time by appropriations for this purpose, any officer of any Reserve component of the Army of the United States may, with his own consent, be ordered to active Federal duty for such length of time as the President may prescribe and in time of a national emergency expressly declared by Congress may be so ordered without his consent. The President may at any time relieve from active duty any Reserve officer who is serving on active duty. Any officer of any Reserve component ordered into or serving on active duty may, with his own consent, be temporarily appointed in a grade in the Army of the United States, either higher or lower than the grade held by him in such Reserve component, and such temporary appointment shall not affect the appointment and grade held by him in his Reserve component.

(e) Appointment of qualified persons as temporary officers.

In time of emergency declared by the President, or by the Congress, and in time of war, the President is authorized to appoint qualified persons (including persons who hold no Regular Army or Reserve status) as temporary officers in the Army of the United States in any of the several commissioned officer grades, and persons so appointed may be

ordered into the active military service of the United States to serve therein for such periods of time as the President may prescribe. The appointment of a temporary officer, if not sooner vacated, shall continue during the emergency or war in which the appointment was made and for six months thereafter.

(f) Temporary appointments made in Army of the United States.

All temporary appointments herein mentioned (officers of the Regular Army, the National Guard of the United States, and the Officers' Reserve Corps temporarily appointed in grades different from those held in their respective components, and, persons holding no Regular Army or Reserve commissions appointed as temporary officers) shall be made in the Army of the United States, and such appointments shall not contain any reference to any other appointment held or not held in any component of the Army of the United States. All temporary appointments herein mentioned may be vacated at any time by the President. Temporary appointments in grades below that of brigadier general shall be made by the President alone, and in general officer grades by and with the advice and consent of the Senate.

(g) Pay and allowances.

All officers temporarily appointed in any grade in the Army of the United States shall, while serving in such grade on active duty in the service of the United States, receive the same pay and allowances as authorized for persons of corresponding grade and length of service holding permanent appointments in that grade in the Regular Army.

(h) Rights, privileges, and benefits.

Each temporary officer and each Reserve officer of any Reserve component, serving on active Federal duty in any commissioned grade, permanent or temporary (herein referred to as "active-duty grade"), shall be entitled, while so serving, to the same rights, privileges, and benefits as now or hereafter provided by law for an officer of the Officers' Reserve Corps of the same length of service holding appointment in the Officers' Reserve Corps in a grade the same as such "active-duty grade" and serving on active duty in the grade held in the Officers' Reserve Corps.

(i) Definitions.

(1) As used in sections 81, 234, 481, 506-506d, 517, 559-559i, 941a, 971b, 971c and 1079a of this title the phrase "permanent grade" means the grade in which an officer holds appointment in the Regular Army, or in the National Guard of the United States, or in the Officers' Reserve Corps, as the case may be. The phrase "permanent appointment" means appointment in the Regular Army, or in the National Guard of the United States, or in the Officers' Reserve Corps, as the case may be.

(2) As used in said sections, the phrase "temporary grade" means the grade in which an officer holds temporary appointment in the Army of the United States (as distinguished from "permanent grade").

(3) As used in said sections, the phrase "temporary officer" means a person who has no Regular Army or reserve commissioned status but who temporarily holds appointment as an officer of the Army of the United States. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 515 (a-i), 61 Stat. 906.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

EFFECTIVE DATE

Section 515 (j) of act Aug. 7, 1947, cited to text, provided in part that this section should become effective on Aug. 7, 1947.

EXTENSION OF TEMPORARY APPOINTMENTS IN WOMEN'S ARMY CORPS

Section 110 of act June 12, 1948, ch. 449, title I, 62 Stat. 363, provided in part that notwithstanding the repeal of Joint Res. Sept. 22, 1941, ch. 414, 55 Stat. 451, as amended by act July 7, 1943, ch. 191, 57 Stat. 380, eff. Dec. 7, 1941, relating to temporary appointments, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, eff. July 1, 1948, said Joint Res. Sept. 22, 1941, continued in effect insofar as temporary appointments in the Women's Army Corps was concerned until twelve months after June 12, 1948.

TEMPORARY APPOINTMENT OF OFFICERS DURING WORLD WAR II EMERGENCY

Joint Res. Sept. 22, 1941, ch. 414, 55 Stat. 728, as amended by act July 7, 1943, ch. 191, 57 Stat. 380, eff. Dec. 7, 1941, provided that during the present emergency the President could make temporary appointments of qualified persons as officers in the Army of the United States.

TEMPORARY PROMOTIONS DURING WORLD WAR II

Act Feb. 16, 1942, ch. 77, 56 Stat. 94, provided for temporary promotions of officers of the Regular Army Air Corps and any other officers of the Regular Army or the Army of the United States assigned to duty with any tactical unit, or any installation, or any staff of the Air Corps.

CROSS REFERENCES

Pay allowances, see section 101 et seq. of Title 37, Pay and Allowances.

RANK AND PRECEDENCE GENERALLY

§ 517. Relative rank of general officers of the Army with flag officers of the Navy.

Officers holding commissions in the grade of major general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such grades. Officers holding commissions in the grade of brigadier general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades. All officers in the Army of the United States, including all components thereof, senior in relative rank to any Regular Army officer, shall also be senior to all Navy officers junior in relative rank to such Regular Army officer. (Aug. 7, 1947, ch. 512, title V, § 516, 61 Stat. 908.)

CODIFICATION

Similar provisions are set out as section 241a of Title 34, Navy.

DETACHED DUTY

§§ 532-534. Repealed. Aug. 7, 1947, ch. 512, title V, § 513 (c), 61 Stat. 902.

Sections are not now covered.

§ 535. Detail of personnel of Army, National Guard, or Organized Reserves as students, observers, or investigators at industrial plants, hospitals, etc.

The Secretary of the Army is authorized to detail personnel of the Army of the United States, without regard to component, as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places as shall be best suited to enable such personnel to acquire knowledge or experience in the specialties in which it is deemed necessary that such personnel shall perfect themselves, and any officer or warrant officer who receives such instruction shall, immediately upon termination thereof, be ordered to active duty for a period at least equal to the duration of his period of instruction but not greater than four years, except that where the duration of such training is ninety days or less, such subsequent active duty may be at the discretion of the Secretary of the Army and only with the consent of the individual concerned: *Provided*, That no member of the National Guard or the Organized Reserve Corps shall be detailed as a student, observer, or investigator pursuant to the provisions of this section nor be ordered to active duty as provided in this section except with his own consent, and, in the case of a member of the National Guard of the United States, with the approval of the Governor or other appropriate authority of the State, Territory, or the District of Columbia, whichever is concerned: *Provided further*, That the Secretary of the Army may require that an enlisted man, prior to his detail pursuant to the provisions of this paragraph, shall be discharged and reenlisted in his component for a period of not less than three years; and the total length of detail of an enlisted man pursuant to the provisions of this paragraph shall not exceed 50 per centum of his enlistment period: *And provided further*, That at no time shall more than 8 per centum of the authorized commissioned officer strength, 8 per centum of the authorized warrant officer strength, or 2 per centum of the authorized enlisted strength of the Regular Army, or more than 8 per centum of the actual commissioned officer strength, 8 per centum of the actual warrant officer strength, or 2 per centum of the actual enlisted strength of all reserve components of the Army (including in the computation of the actual strength of each such class of reserve personnel persons in active or inactive duty status), be detailed as students pursuant to the provisions of this section. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 19, 1948, ch. 501, § 1, 62 Stat. 477.)

CODIFICATION

Section was made applicable to the Air Force by section 3 of act June 19, 1948, cited to text, and is set out as sec-

tion 626q of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section to cover the Reserve components of the Army and to require service on active duty for such Reserves immediately following the completion of the course of training.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

DETAIL OF PERSONNEL OF ALL COMPONENTS OF ARMY DURING WAR

Retention of men completing medical courses under this act on active duty, see note to section 484 of this title.

CROSS REFERENCES

Resignations from service after completing course of instruction, see section 628 of this title.

§ 535a. Same; payment of expenses.

All expenditures incident to the detail of personnel as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as provided in section 535 of this title, shall be paid from any appropriated Department of the Army funds. (June 19, 1948, ch. 501, § 2, 62 Stat. 478.)

CODIFICATION

Similar provisions relating to the Air Force are set out as section 626r of Title 5, Executive Departments and Government Officers and Employees.

§ 540. Detail of officers and men to assist foreign governments.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 541. Detail of personnel for foreign service of Department of State.

TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949, ch. 288, title I, 63 Stat. 380. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of said act. Said section 103 is set out as section 213 of Title 41, Public Contracts.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions as effective July 1, 1949, see note set out under section 201 of Title 41, Public Contracts.

PROMOTION

§§ 551, 551a. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), (3), 61 Stat. 886.

Section 551 is now covered by section 506a of this title. Section 551a is now covered by section 506a of this title.

§ 552. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by sections 559b-559d of this title.

§ 552a. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

Section is now covered by section 559 of this title.

§§ 553, 553a. Repealed. Aug. 7, 1947, ch. 512, title V, § 505 (f), 61 Stat. 890, eff. Dec. 31, 1947.

Section 553 is now covered by section 559 of this title.

Section 553a is now covered by section 506c of this title.

§ 555a. Examination provisions for promotion repealed; physical examinations for grades below brigadier general and specified Corps excepted.

Existing laws providing for the examination of officers for promotion are repealed, except those relating to physical examination, which shall continue to be required for promotion to all grades below that of brigadier general, and except also those governing the examination of officers of the Medical, Dental, and Veterinary Corps. Officers of said three Corps shall be examined in accordance with laws governing examination of officers of the Medical Corps. (June 3, 1916, ch. 134, § 24c, as added June 4, 1920, ch. 227, subch. I, § 24, 41 Stat. 774, and amended Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 894.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by omitting all provisions relating to status on promotion list in filling vacancies.

§ 556. Examination for promotion.

AMENDMENTS

1947—Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 894, reenacted provisions for physical examinations for promotion purposes for all grades below brigadier general.

§ 556a. Same; absence from place of examination; promotion subject to later examination.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 557. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

Section is now covered by section 559a of this title.

§ 559. Regular Army officers—(a) Promotion lists; definition.

The names of all active list commissioned officers of the Regular Army in permanent grades below that of brigadier general (except professors of the United States Military Academy, officers of the Army Nurse Corps, and Women's Medical Specialist Corps, and officers in special categories excluded by some express provision of law) shall be carried on promotion lists as hereinafter prescribed and such officers may be referred to as promotion-list officers. As used in this section the phrase "total authorized promotion-list strength" means the authorized active list commissioned officer strength of the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers and the number of active list general officers of the Regular Army.

(b) Authorized numbers in grades below brigadier general on promotion lists; exceeding of authorized numbers.

(1) The authorized numbers in each of the several grades in each of the several promotions lists shall be prescribed by the Secretary of the Army by a schedule of percentages in grades for each list (there being authorized for each grade a percentage of the total strength authorized for that list), which schedule of percentages may be different for each promotion list, but the numbers thus authorized in each of the several grades in each of the several promotion lists shall not exceed any limitations prescribed by laws enacted after January 1, 1947, and shall not exceed in any promotion list the following percentages of the total strength authorized for that list: 8 per centum in grade of colonel, 14 per centum in grade of lieutenant colonel, 19 per centum in grade of major, 23 per centum in grade of captain, 18 per centum in grade of first lieutenant, and 18 per centum in grade of second lieutenant: *Provided*, That in the Medical Corps, Dental Corps, and chaplains promotion lists there shall be no second lieutenants, and the numbers authorized in the grade of first lieutenant in such promotion lists shall be all those not authorized in higher grades: *Provided further*, That in the Women's Army Corps promotion list there shall be no officers in the permanent grade of colonel and the authorized number in the permanent grade of lieutenant colonel shall not exceed 10 per centum of the total strength authorized for that promotion list but the percentages not authorized in these grades by virtue of this proviso shall be allotted by the Secretary of the Army to grades below lieutenant colonel in such promotion list: *Provided further*, That numbers may be authorized for any grade in any promotion list in lieu of authorizations in higher grades: *And provided further*, That this provision shall not operate to require a reduction in permanent grade of any officer in any promotion list now holding permanent appointment in any grade.

(2) The number authorized by the Secretary of the Army for each grade in each promotion list may be exceeded by the number of vacancies existing in higher grades in that list. The authorized numbers in grades below colonel shall from time to time be temporarily increased as provided in sections 508 and 509 of this title in order to give effect to the promotion system prescribed in those sections.

(c) Promotion lists.

(1) The Army promotion list shall contain the names of all promotion-list officers except officers of the Air Corps, the Women's Army Corps, the several corps of the Medical Department, and chaplains.

(2) The Air Corps promotion list shall contain the names of all promotion-list officers of the Air Corps.

(3) The Medical Corps promotion list shall contain the names of all promotion-list officers of the Medical Corps.

(4) The Dental Corps promotion list shall contain the names of all promotion-list officers of the Dental Corps.

(5) The Veterinary Corps promotion list shall contain the names of all promotion-list officers of the Veterinary Corps.

(6) The Medical Service Corps promotion list shall contain the names of all promotion-list officers of the Pharmacy Corps, the Medical Administrative Corps, and the Medical Service Corps.

(7) The chaplains promotion list shall contain the names of all promotion-list chaplains.

(8) The Women's Army Corps promotion list shall contain the names of all promotion-list officers of the Women's Army Corps.

(d) Date of rank and seniority in permanent grade; definitions.

(1) On each of the several promotion lists, names of officers shall be arranged by grade in which the officers hold permanent appointments in the Regular Army in the following order: First, colonels; second, lieutenant colonels; third, majors; fourth, captains; fifth, first lieutenants; and, sixth, second lieutenants. The words "grade", "senior", and "seniority" as used in this section mean "permanent grade", "senior in permanent grade", and "permanent grade seniority", respectively.

(2) Among officers of the same grade and promotion list, names shall be arranged as provided in this title and seniority among such officers shall be established thereby. The officer whose name appears first on the list shall be the senior, the officer whose name appears second on the list shall be the senior next below the first, the officer whose name appears third on the list shall be the senior next below the second, and so on throughout the list.

(3) Among officers of the same grade whose names are not contained on the same promotion list, the officer with the earliest date of rank shall be the senior, and in cases of same date of rank, the officer with the greatest amount of continuous active commissioned service in the Regular Army shall be the senior, and in cases where this is the same, seniority shall be as established at time of original appointment in the Regular Army, and in cases not covered by the foregoing, as established by the Secretary of the Army. Any officer transferred from one branch, arm, or service to another, the officers of which are contained on a different promotion list, shall have his name entered upon such new promotion list among the officers in his grade in accordance with their relative seniority as hereinabove defined.

(4) Unless specifically provided otherwise, upon appointment of a promotion-list officer in any grade, such officer's name shall be placed at the bottom of the list of officers of the grade in which appointed.

(e) Order of precedence.

(1) The Army and Air Corps promotion lists described in this section shall be established by entering thereon the names of the officers concerned without change in the order of their precedence on the promotion list as established under the law prior to August 7, 1947: *Provided*, That the provisions of subsection 559h (a) of this title shall first be carried out.

(2) The Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, and Chaplains promo-

tion lists described in this section shall be established by entering thereon the names of the officers concerned without change in the order of their precedence determined by the total amount of service creditable to them for promotion purposes under existing law and in cases of an equal amount of such service, the officer with the greatest amount of continuous commissioned service on the active list of the Regular Army shall have precedence, and in cases where this is the same, precedence shall be in accordance with permanent seniority standing as established at time of original appointment in the Regular Army, and in cases not covered by the foregoing, precedence shall be established by the Secretary of the Army: *Provided*, That the provisions of section 559h (b) of this title shall first be carried out. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 505 (a-e), 61 Stat. 888; June 12, 1948, ch. 449, title I, § 104 (d) (3) (4), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (b) amended by act June 12, 1948, § 104 (d) (3), cited to text, by adding second proviso to par. (1) to make restricted number of officers in grade of colonel and lieutenant colonel in Women's Army Corps.

Subsec. (c) amended by act June 12, 1948, § 104 (d) (4), cited to text, which added "the Women's Army Corps," immediately after "Air Corps" in par. (1), and added par. (8) relating to the Women's Army Corps.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

EFFECTIVE DATE

Section 505 (f) of act Aug. 7, 1947, cited to text, provided in part: "This section shall not become effective until December 31, 1947, for the purpose, during the interim, of administering the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended [sections 505-505d and 552c of this title], and other Acts or provisions of law providing for the appointment of persons as additional officers of the Regular Army; but otherwise this section shall be effective on the date of enactment of this Act [Aug. 7, 1947]."

§ 559a. Promotions generally—(a) Selection boards; composition, tenure, qualifications, duties, and oath; removal of name from recommended list; retirement in recommended grade.

(1) Unless expressly provided otherwise by some provision of law, general officers of the Regular Army and promotion-list officers of the Regular Army shall be permanently promoted to and appointed in the grades of major general, brigadier general, colonel, lieutenant colonel, major, and captain in the Regular Army only when recommended for promotion to those grades by a selection board as provided in this title.

(2) Selection boards shall be convened from time to time in such number and under such regulations as the Secretary of the Army may prescribe. Board members shall be appointed by the Secretary of the Army. There shall not be less than five members on each board.

(3) Selection boards shall serve for such length of time as the Secretary of the Army may prescribe, but no one board shall serve longer than one year.

No officer shall serve on two consecutive selection boards for the same grade, when the second of such boards considers any of the officers who were considered but not recommended for that grade by the first.

(4) Board members must be senior in permanent grade and temporary rank to any officer being considered by their board. They must be Regular Army officers holding commissions in a grade above that of lieutenant colonel either in the Regular Army or under temporary appointment in the Army of the United States: *Provided*, That any selection board convened to consider and recommend officers of the Women's Army Corps of the Regular Army for promotion to any grade may contain officers of the Women's Army Corps of the Regular Army in any grade above that of major either in the Women's Army Corps of the Regular Army or under temporary appointment in the Army of the United States.

(5) A majority of the total membership of any board must agree on each of the officers recommended for promotion by that board.

(6) The President may remove from the recommended list the name of any officer recommended for promotion to any grade by any selection board who in his opinion is not qualified for promotion. Any officer whose name is removed from the recommended list for any grade by the President or who, after nomination by the President for any grade, cannot be appointed because of advice by the Senate that the appointment does not have its consent, shall continue to be eligible for consideration for promotion as though he had not been considered for that grade by the selection board which had recommended him, and the next succeeding selection board may select and recommend the officer concerned for promotion, and thereupon his name shall again be placed on the recommended list and when promoted such officer shall take the same date of rank and place on the promotion list he would have had had he been promoted as a result of his original selection; however, should any officer, having once been selected for promotion to any grade under section 559c of this title, fail of promotion to such grade either (a) by virtue of having his name removed from the recommended list by the President, or (b) on account of advice by the Senate that the appointment does not have its consent, again fail of promotion to the next higher grade either (a) by being considered but not selected by the next succeeding selection board, (b) by virtue of having his name removed from the recommended list by the President, or (c) on account of advice by the Senate that the appointment does not have its consent, he shall be deemed to have twice failed of selection and shall be eliminated from the active list of the Regular Army in accordance with the provisions of section 559c (h) of this title.

(7) Officers on a recommended list for promotion to any grade under the provisions of sections 81, 234, 481, 506–506c, 559–559i, 941a, 971b, 971c, and 1079a of this title, who, at any time prior to promotion, are found incapacitated for service by reason of physical

disability contracted in line of duty shall, when retired, be retired in the grade for which they were recommended, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which recommended, unless entitled to higher retired rank or pay under other provisions of law.

(8) Each member of a selection board provided for in sections 81, 234, 481, 506–506c, 559–559i, 941a, 971b, 971c, and 1079a of this title shall swear or affirm that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Army, perform the duties imposed upon him as herein provided.

(b) Suspension of selection boards during emergency.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion.

(c) Rights of eligible officers.

Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Department of the Army concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer.

(d) Effective date with respect to promotions to certain grades; interim promotions.

The provisions of sections 81, 234, 481, 506–506c, 517, 559–559i, 941a, 971b, 971c, and 1079a of this title shall be effective immediately upon August 7, 1947, with respect to permanent grade promotion appointments of Regular Army officers to the grades of major general and brigadier general and with respect to permanent grade promotion appointments of Regular Army promotion-list officers to grade of colonel: *Provided*, That in the case of any Regular Army officer who on August 7, 1947, has been nominated by the President and confirmed by the Senate for appointment to any grade but not yet appointed in that grade, such officer shall be appointed in that grade as soon as a vacancy exists therein irrespective of the requirements of said sections with respect to promotions. Regular Army promotion-list officers shall continue to be promoted to and appointed in the permanent grades of lieutenant colonel, major, captain, and first lieutenant in accordance with existing provisions of law until December 31, 1947, and on that date the provisions of said sections shall become effective for promotion of all Regular Army promotion-list officers to all permanent grades. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 507 (a–d), 61 Stat. 892; June 12, 1948, ch. 449, title I, § 104 (d) (5), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (a) amended by act June 12, 1948, cited to text, which added proviso relating to the Women's Army Corps to par. (4).

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

EX. ORD. NO. 9928. SUSPENSION OF PROFESSIONAL EXAMINATIONS FOR PERMANENT PROMOTION OF OFFICERS IN THE MEDICAL DEPARTMENT OF THE ARMY

Ex. Ord. No. 9928, Jan. 22, 1948, 13 F. R. 319, provided:

By virtue of the authority vested in me by section 507 (b) of the Officer Personnel Act of 1947, approved August 7, 1947 (Public Law 381, 80th Congress) [subsection (b) of this section], it is ordered as follows:

1. The operation of all provisions of law requiring professional examinations for permanent promotion in the Regular Army of officers of the Medical, Dental, and Veterinary Corps is hereby suspended until June 30, 1948.

2. This order shall become effective as of January 1, 1948.

§ 559b. Promotion to grade of first lieutenant.

Promotion-list officers in permanent grade of second lieutenant shall be promoted to and appointed in the grade of first lieutenant in the Regular Army on completion of three years' service, and the authorized number of officers in the grade of first lieutenant shall, from time to time, be temporarily increased as necessary to authorize such appointments ("years' service" as used in this section means and includes all service creditable for promotion purposes). Second lieutenants who are found to be not fully qualified shall have their commissions revoked and be discharged under the authority of section 484 of this title. Whenever there are vacancies in any promotion list in the grade of first lieutenant, officers of that list in the grade of second lieutenant may, under regulations prescribed by the Secretary of the Army, be promoted and appointed in the grade of first lieutenant before completion of three years' service, but no officer in the grade of second lieutenant will be promoted under the provisions of this section ahead of any officer in that grade whose name appears above his on the promotion list concerned. This section shall be effective December 31, 1947. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 508, 61 Stat. 894.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559c. Promotion to grades of captain, major, and lieutenant colonel or elimination from active list—
(a) Effective date.

After January 1, 1949, promotion-list officers shall be promoted to and appointed in the permanent grades of captain, major, and lieutenant colonel in the Regular Army, or eliminated from the active list, as hereinafter in this section prescribed: *Provided*, That the provisions of this section shall not apply to promotion of officers of the Women's Army Corps of the Regular Army to the grade of lieutenant colonel.

(b) Consideration by selection board on completion of certain number of years' service; definition.

Irrespective of the existence of any vacancies, each promotion-list officer in permanent grade of

first lieutenant, captain, and major shall be considered by a selection board for promotion to the permanent grade of captain, major, and lieutenant colonel, sufficiently in advance of the date on which he completes seven, fourteen, and twenty-one years' service, respectively, so that such officer, if recommended by the selection board, may be promoted to and appointed in such grade on the date on which he completes such length of service ("years' service" as used in this section means and includes all service creditable for promotion purposes).

(c) Recommendation for promotion.

Based upon the number of vacancies existing and anticipated in any promotion list in the grade of captain, major, and lieutenant colonel, respectively, the Secretary of the Army may direct a selection board to consider and recommend for promotion to such grades officers of that list in permanent grade of first lieutenant, captain, and major, respectively, irrespective of the length of service of such officers.

(d) Date of consideration by selection board; officers considered.

In no instance shall any officer be considered by any selection board for promotion to the grade of captain, major, or lieutenant colonel more than two years prior to the date on which it is anticipated he will, if recommended by such board, be appointed in that grade. Whenever any officer is considered by any selection board under any provision of this section for promotion to the grade of captain, major, or lieutenant colonel in any promotion list, such board shall also consider all officers of that officer's grade and promotion list whose names appear above his on that list and are not carried on the recommended list for the next higher grade: *Provided*, That no officer who has been twice considered and not recommended for promotion to any one grade shall thereafter again be considered for promotion under the provisions of this section.

(e) Procedure.

(1) When officers in the grade of first lieutenant, captain, and major are to be considered by a selection board for promotion to the grade of captain, major, and lieutenant colonel, respectively, to fill vacancies in these grades, existing or anticipated, the Secretary of the Army, in his discretion, may follow the procedure described in paragraph (3) of this subsection, or he may direct the selection board to consider officers in the grades of first lieutenant, captain, or major (as the case may be) in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade concerned, pass over those who are not fully qualified for promotion to such grade, and continue such procedure until a specified number of recommended officers is obtained.

(2) When officers in the grade of first lieutenant, captain, and major must be considered by a selection board for promotion to the grade of captain, major, and lieutenant colonel, respectively, by reason of completion of years of service, or by reason of being on a promotion list above an officer of that list who

must be considered for that reason, the Secretary of the Army, in his discretion, may follow the procedure described in paragraph (3) of this subsection, or he may furnish to the selection board a list of officers to be considered for promotion to the grade concerned and direct such board to recommend from among the officers so listed all those and only those considered by the board to be fully qualified for promotion to that grade.

(3) In either of the circumstances described in paragraphs (1) and (2) of this subsection, the Secretary of the Army may, in lieu of the procedures there prescribed, furnish to a selection board a list of officers to be considered for promotion to the grade concerned and direct such board to select and recommend from among those listed a specified number for promotion to that grade, the officers to be selected to be the best qualified of those listed for consideration. If this procedure is followed, the Secretary of the Army shall prescribe the number to be selected but in no event shall that number be less than 80 per centum of those officers listed for consideration.

(f) Permanent recommended list; precedence.

The names of officers of any promotion list who are selected and recommended for promotion to any grade under the provisions of this section shall be carried on a permanent recommended list of officers of that promotion list for promotion to that grade. The names of those recommended by any selection board shall be entered on the applicable recommended list with the same precedence standing among themselves as exists on the applicable promotion list. No officer of any recommended list shall be appointed in the grade for which recommended ahead of any other officer whose name appears above his on such recommended list.

(g) Definition of deferred officers.

The phrase "deferred officer" as used in this section means any officer considered and not recommended by any selection board for the grade of captain, major, or lieutenant colonel under the provisions of this section. Each "deferred officer" shall suffer loss in precedence for promotion purposes to those officers who were recommended by the selection board which failed to recommend him, and shall suffer a reduction in his years of service for promotion purposes, if necessary, so that, one year subsequent to the time he would have been appointed in the next higher grade had he been recommended, he shall not have for promotion purposes more than seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major; however such loss in precedence for promotion purposes and such loss in years of service for promotion purposes shall not result in any loss in seniority by such "deferred officer" until his juniors are promoted to the next higher grade.

(h) Reconsideration of deferred officers.

Deferred officers in any grade shall be considered a second time by the next selection board designated for consideration of officers of his grade and promo-

tion list and if recommended by such board his name shall be entered on the applicable recommended list with the other officers recommended by such board and with the same precedence among themselves as exists on the applicable promotion list but below the names of officers placed on such recommended list by any earlier board. If an officer fails of selection for any grade but is subsequently recommended and promoted to that grade, his failure in the grade from which promoted shall not in any sense be counted as a failure of selection when he is subsequently considered for further promotion. If a "deferred officer" is not recommended by the next consecutive selection board, he shall, on that date which is one year and thirty days subsequent to the date on which he would have been appointed in the next higher grade had he been recommended by the first of two consecutive selection boards, be eliminated from the active list of the Regular Army and retired or separated, as the case may be (see section 941a of this title): *Provided*, That, if on such date, he is within two years of becoming entitled to retirement under the provisions of section 941a of this title, the date of elimination shall be the date on which he becomes entitled to retirement, rather than that hereinabove prescribed, and he shall be retained on the active list in the permanent grade held until qualified for retirement and then retired, unless sooner retired or separated under some other provision of law.

(i) Date of appointment.

For the purpose of administering the provisions of this section, the date on which a deferred officer would have been appointed in the next higher grade, if he had been recommended by the first of such two consecutive selection boards, shall be counted as the date of appointment in such grade of whichever officer, junior to him on the list prior to his loss in seniority, is first to be appointed in such grade, or the date on which, had he not suffered loss in years of service, he would have completed for promotion purposes, seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major, whichever of said two dates is the earlier.

(j) Filling vacancies.

Officers of any promotion list, whose names are carried on any recommended list for promotion to any grade under the provisions of this section, may be promoted and appointed in the grade for which recommended whenever there is a vacancy in the number authorized for that grade in that promotion list. Promotions and appointments to fill vacancies may be made at any time, but it is not mandatory that the authorized numbers in grades in the several promotion lists be maintained.

(k) Completion of requisite years of service.

Irrespective of any vacancy in any grade, whenever any officer whose name is carried on any recommended list under the provisions of this section, completes for promotion purposes, seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service

if in grade of major, the authorized number of officers in the grade of captain, major, and lieutenant colonel, respectively, in the applicable promotion list, shall be temporarily increased, if necessary, to authorize the appointment in that grade of such officer and all officers of his grade and promotion list whose names appear above his on the recommended list, and such officers shall be simultaneously appointed in that grade, retaining among themselves their existing relative seniority.

(l) Additional procedures for Air Corps.

In addition to the procedures described in subsection (e) of this section, whenever in the Air Corps promotion list there are vacancies in the grade of captain, major, or lieutenant colonel, respectively, and, in the discretion of the Secretary of the Army, there are or will be an inadequate number of officers in that grade with certain special qualifications required for the Air Corps, he may direct a selection board to select a specified number of Air Corps promotion-list officers having such special qualifications for promotion to that grade. The selection in such instance shall be accomplished under the same rules that apply generally in this section, except that officers not selected shall not be deemed to have been considered for promotion within the meaning of subsections (d) and (g) of this section. Officers selected under this procedure shall be appointed in the grade for which selected only to fill vacancies in the numbers authorized in that grade.

(m) Promotions under existing law until December 31, 1947; suspension.

Promotion of promotion-list officers to grades of captain, major, and lieutenant colonel shall continue to be made under existing law until December 31, 1947; thereafter, promotions to these grades shall be suspended until promotions are made on or about July 1, 1948, to fill initial requirements in these grades under the provisions of section 559h of this title, and thereafter, promotions to these grades shall again be suspended until December 31, 1948. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 509, 61 Stat. 894; June 12, 1948, ch. 449, title I, § 104 (d) (6), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (a) amended by act June 12, 1948, cited to text, added proviso to except Women's Army Corps from provisions of this section.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

§ 559c-1. Women's Army Corps promotion-list officers; promotion to grade of lieutenant colonel.

Women's Army Corps promotion-list officers shall be promoted to and appointed in the permanent grade of lieutenant colonel in the Regular Army

only when a vacancy exists in the number of lieutenant colonels authorized for that promotion list. Such officers shall be appointed in that grade only when selected and recommended for that grade by a selection board under regulations prescribed by the Secretary of the Army. (Aug. 8, 1947, ch. 512, title V, § 509A, as added June 12, 1948, ch. 449, title I, § 104 (d) (7), 62 Stat. 358.)

§ 559d. Promotion to grade of colonel—(a) Effective date.

After August 7, 1947, promotion-list officers shall be promoted to and appointed in the permanent grade of colonel in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the proviso to the first sentence of section 559a (d) of this title.

(b) Selection and recommendation by selection board; list of names for consideration.

Based upon the number of vacancies existing and anticipated in any promotion list in the grade of colonel and the number of officers desired in that grade in that promotion list, the Secretary of the Army shall direct a selection board to select and recommend a prescribed number of officers of that promotion list for promotion to that grade and shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the name of the senior officer of that promotion list below the junior in the permanent grade of colonel whose name is not carried on the recommended list for promotion to the grade of colonel and the names of additional such officers in the order that their names appear next below his on that promotion list, as the Secretary of the Army may prescribe, and until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of colonel who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration: *Provided*, That whenever in the opinion of the Secretary of the Army the number of officers in the permanent grade of colonel in each of the several branches included in the Army promotion list is or may become seriously unbalanced, he may, in his discretion, direct that, of the officers to be selected and recommended for the grade of colonel, specified numbers be selected for service in specified branches: *And provided further*, That whenever in the opinion of the Secretary of the Army, in the Air Corps promotion list, there is or will be an inadequate number of officers, in the permanent grade of colonel, possessing certain special qualifications required for the Air Corps, he may, in his discretion, direct that, of the officers to be selected and recommended for the grade of colonel, specified numbers possess certain specified qualifications.

(c) Permanent recommended list, promotion upon vacancy.

The names of officers of any promotion list who are selected and recommended for promotion to the grade of colonel in the Regular Army shall be carried on a permanent recommended list of officers of that promotion list for promotion to that grade. The names of those recommended by any selection board shall be entered on the applicable recommended list at the foot thereof in the same precedence standing among themselves as exists on the applicable promotion list. No officer of any recommended list shall be appointed in the grade of colonel ahead of any other officer whose name appears above his on such recommended list. Officers whose names are carried on any such recommended list may be promoted and appointed in the grade of colonel only when there is a vacancy in the number authorized for that grade in that promotion list. Promotion appointments to fill vacancies in the grade of colonel in the Regular Army may be made at any time, but it is not mandatory that authorized numbers in that grade in the several promotion lists be maintained.

(d) Ratio of promotion list officers to officers selected; time of selection; term of service as lieutenant colonel.

The ratio of the number of officers of any promotion list which the Secretary of the Army names for consideration by any selection board for promotion to the grade of colonel in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of the Army but no officer shall be considered or selected by any selection board more than two years prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of lieutenant colonel in the Regular Army before being nominated or appointed in the grade of colonel in the Regular Army. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 510, 61 Stat. 897.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

§ 559e. Promotion to brigadier general—(a) Effective date.

After August 7, 1947, promotion-list officers shall be promoted to and appointed in the permanent grade of brigadier general in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the provisions of section 559g of this title, and except in those cases governed by the proviso to the first sentence of section 559a (d) of this title.

(b) Selection and recommendation by selection board; list of names for consideration.

Based upon the number of vacancies existing and anticipated in the grade of brigadier general in the Regular Army and the number of officers desired in that grade, the Secretary of the Army shall direct a selection board to select and recommend a prescribed number of officers for promotion to that grade, and, in order to insure that the Army will have adequate numbers of officers in the grade of brigadier general with experience qualifying them for service in or with the several branches, arms, and services, he may, in his discretion, direct that, of the number to be selected and recommended, specified numbers have experience qualifying them for service in or with certain specified branches, arms or services. The Secretary of the Army shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the names of the senior officers below the junior in the permanent grade of brigadier general whose names are not carried on the recommended list for promotion to the grade of brigadier general and the names of additional such officers in the order that their names appear next below theirs on the applicable promotion lists, as the Secretary of the Army may prescribe, and, until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of brigadier general who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number, including any prescribed numbers whose experience qualifies them for service in or with a designated branch, arm, or service. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration.

(c) Permanent recommended list; nomination upon vacancy in grade.

The names of officers who are selected and recommended for promotion to the grade of brigadier general in the Regular Army shall be carried on a permanent recommended list of officers for promotion to that grade. Upon selection, the names of such officers shall be placed on the recommended list at the foot thereof arranged among themselves according to precedence to be determined by the Secretary of the Army. The number of officers to be selected and recommended by designated selection boards for promotion to the grade of brigadier general in the Regular Army shall be determined by the Secretary of the Army. It is not mandatory that the Secretary of the Army direct the selection and recommendation of numbers sufficient to produce the number authorized for that grade; but officers who are selected and recommended for promotion to that grade by any such selection board, and whose names are not removed from the recommended list by the President, shall be nominated, and by and with the advice and consent of the Senate appointed, in that grade as soon as there

is a vacancy in the number authorized for that grade.

(d) Ratio of promotion list officers to officers selected; time of selection; term of service as colonel.

The ratio of the number of officers which the Secretary of the Army names for consideration by any selection board for promotion to the grade of brigadier general in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of the Army, but no officer shall be considered or selected by any selection board more than one year prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of colonel in the Regular Army, before being nominated or appointed in the grade of brigadier general in the Regular Army. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 511, 61 Stat. 898.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559f. Promotion to grade of major general—(a) Effective date.

After August 7, 1947, Regular Army officers shall be promoted to and appointed in the permanent grade of major general in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the provisions of section 559g of this title and except in those cases governed by the proviso to the first sentence of section 559a (d) of this title.

(b) Selection and recommendation by selection board; list of names for consideration.

Based upon the number of vacancies existing and anticipated in the grade of major general in the Regular Army and the number of officers desired in that grade, the Secretary of the Army shall direct a selection board to select and recommend a prescribed number of officers for promotion to that grade, and, in order to insure that the Army will have adequate numbers of officers in the grade of major general with experience qualifying them for service in or with the several branches, arms, and services, he may, in his discretion, direct that, of the number to be selected and recommended, specified numbers have experience qualifying them for service in or with certain specified branches, arms, or services. The Secretary of the Army shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the name of the senior officer in the permanent grade of brigadier general whose name is not carried on the recommended list for promotion to the grade of major general and the names of additional such officers in the order that their names appear next below his on the general officers' seniority list, as the Secretary of the Army

may prescribe, and, until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of major general who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number, including any prescribed numbers whose experience qualifies them for service in or with a designated branch, arm, or service. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration.

(c) Permanent recommended list; nomination upon vacancy in grade.

The names of officers who are selected and recommended for promotion to the grade of major general in the Regular Army shall be carried on a permanent recommended list of officers for promotion to that grade. Upon selection, the names of such officers shall be placed on the recommended list at the foot thereof arranged among themselves according to precedence to be determined by the Secretary of the Army. The number of officers to be selected and recommended by designated selection boards for promotion to the grade of major general in the Regular Army shall be determined by the Secretary of the Army. It is not mandatory that the Secretary of the Army direct the selection and recommendation of numbers sufficient to produce the number authorized for that grade; but officers who are selected and recommended for promotion to that grade by any such selection board, and whose names are not removed from the recommended list by the President, shall be nominated, and by and with the advice and consent of the Senate appointed, in that grade as soon as there is a vacancy in the number authorized for that grade.

(d) Ratio of promotion list officers to officers selected; time of selection; term of service as brigadier general.

The ratio of the number of officers which the Secretary of the Army names for consideration by any selection board for promotion to the grade of major general in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of the Army, but no officer shall be considered or selected by any selection board more than one year prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of brigadier general in the Regular Army, before being nominated or appointed in the grade of major general in the Regular Army. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 512, 61 Stat. 900.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559g. Appointment of chiefs and assistant chiefs of services—(a) Officers eligible; promotion to general officer grade; tour of duty; effective date.

Each of the offices of chiefs of branches, arms, or services, and each of the offices of their assistants as provided by law, respectively, shall be filled by the President appointing, by and with the advice and consent of the Senate, an officer, not below the grade of lieutenant colonel, who has demonstrated by actual and extended duty in such arm, branch, or service or on similar duty that he is qualified for such assignment, and who has been recommended for such office by a board of officers as prescribed in subsection (b) of this section. Upon the appointment of a Regular Army officer to any such office, he shall at the same time, if he does not already hold permanent appointment in the Regular Army in the grade called for by such office, be permanently appointed in grade of major general or brigadier general in the Regular Army, whichever is the rank specified for such office. An officer appointed to any such office shall normally continue in that assignment for a tour of duty of four years but such assignment may be terminated at any time, or such tour may be extended by the President in his discretion. The termination of an officer's assignment as chief or assistant chief of a branch, arm, or service shall have no effect upon the permanent general officer grade held by him. Whenever any Regular Army officer is to be appointed as a chief or an assistant chief of a branch, arm, or service and at the same time in the permanent grade of major general or brigadier general in the Regular Army, whichever is the rank specified for such office, the total authorized number of officers in that grade shall be temporarily increased if necessary to authorize such appointment, but such temporary increase in authorized numbers in such grade shall continue only until a vacancy shall occur in such grade. Officers now serving as chiefs of branches, arms, or services, and their respective assistants, will not be affected by this section. This section shall become effective for each such office on the date that office is vacated by the present incumbent. This section shall not apply to the office of Chief of the National Guard Bureau.

(b) **Selection board; composition; list of officers considered; selection and recommendation; failure of nomination.**

Officers shall be recommended to fill the office of chief of a branch, arm, or service, or the office of an assistant chief of a branch, arm, or service, as follows: The Secretary of the Army shall appoint a board of five general officers which shall include the then incumbent, if any, of the office to be filled and at least two other officers, if available, of a rank above that of the position for which selections are to be made who have had actual and extended service in the branch concerned. The Secretary of the Army shall furnish to such board a list of the officers to be considered by it and shall specify the number to be recommended, which number shall not be less than three. The list to be considered shall include all

Regular Army officers of the branch concerned in the permanent grade of colonel, all Regular Army officers above the grade of colonel who have demonstrated by actual and extended duty in such arm, branch, or service, or on similar duty, that they are qualified for such assignment, and may in addition thereto and to the extent determined advisable by the Secretary of the Army, include the names of Regular Army officers of the branch concerned in the permanent grade of lieutenant colonel in the order that their names appear upon the promotion list concerned, and the names of officers of any component of the Army of the United States serving on extended active duty in grades above lieutenant colonel who have demonstrated by actual and extended duty in the branch, arm, or service concerned, or on similar duty, that they are qualified for such assignment. From among the officers named for consideration the board shall select and recommend the prescribed number. From among those recommended by such board, the President may appoint an officer in the position concerned. If the President declines to appoint any of those so recommended or if those he may nominate cannot be appointed because of advice by the Senate, the Secretary of the Army shall convene a board to select and recommend additional officers in accordance with the procedure heretofore prescribed. Officers who are recommended and who are not appointed shall be deemed not to have been recommended but this shall in no way prejudice their eligibility for selection and recommendation for the grade of major general or brigadier general under the provisions of sections 559e and 559f of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 513 (a, b), 61 Stat. 901.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559h. Service credit to certain Regular Army officers in service prior to December 28, 1945—(a) Promotion list officers.

Each person who was appointed a second lieutenant between December 7, 1941, and December 28, 1945, in any arm or service of the Regular Army, the officers of which are carried on the promotion list as constituted prior to August 7, 1947, and who has had continuous active commissioned service in the Regular Army since such appointment, and who on August 7, 1947, holds active commissioned office in an arm or service of the Regular Army, the officers of which are carried on the promotion list as constituted prior to August 7, 1947, shall be credited with service equivalent to the total period of active Federal commissioned service performed by him after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof from December 7, 1941, to the date of such appointment: *Provided*, That persons who were promoted and appointed second lieutenants in the Regular Army upon gradu-

ation from the United States Military Academy shall not be credited with any such service. The service herein credited shall be counted for the same purposes as, and construed similar to, service credited to persons upon appointment in the Regular Army under the provisions of sections 505–505d and 552c of this title. The names of such officers shall be placed on the promotion list as constituted immediately prior to August 7, 1947, in the places they would be had such officers been credited with the service herein credited at the time of their appointment in the Regular Army and had their names been entered on the promotion list at the time of their appointment immediately below those officers of the same grade having the same or next greater period of service. Officers credited with an equal amount of service by virtue of their service in the Regular Army and the additional service herein credited shall be placed on the promotion list as aforesaid without alteration among themselves of their former precedence and seniority standing.

(b) Non promotion list officers.

Each person holding active commissioned office as a chaplain in the Regular Army or in the Medical Corps, Dental Corps, or Veterinary Corps of the Regular Army on August 7, 1947, who was originally so appointed and commissioned in the Regular Army between June 27, 1926, and December 28, 1945, and has had continuous commissioned service in the Regular Army since such appointment, shall be credited, respectively, with additional years of service for promotion purposes as follows: Chaplains, six and eight-twelfths years; Medical Corps officers, three and five-twelfths years; Dental Corps officers, three and one-twelfth years; Veterinary Corps officers, one and four-twelfths years: *Provided*, That due to such additional service so creditable for promotion purposes no person shall have his existing service creditable for promotion purposes increased to an amount greater than the service he would possess for promotion purposes solely by virtue of continuous active commissioned service in the Regular Army from June 27, 1926. Such officers shall be given precedence for promotion purposes in accordance with the precedence they would have, had such years of service been credited to such officers on December 28, 1945, and had those who would have become entitled to promotion in permanent grade in the Regular Army by virtue thereof been so promoted. No action under this subsection shall change the relative precedence for promotion purposes of any officer who held a commission as chaplain or in any of these corps on December 28, 1945, with respect to any other officer who held a commission on that date as chaplain or in the same corps, respectively.

(c) Adjustment of dates of rank.

Dates of rank in permanent grades of officers credited with additional service pursuant to this section shall be adjusted to accord to their new positions on the promotion list or, in the case of "non-promotion-list" officers, to their new precedence for promotion purposes, as the case may be.

(d) Accrual of back pay or allowances.

No back pay or allowances shall accrue to any person by reason of the enactment of this section. (Aug. 7, 1947, ch. 512, title V, § 517, 61 Stat. 909.)

§ 559i. Promotions to fulfill initial requirements in certain grades—(a) Time of promotion; seniority rank on promotion lists; number, definition.

(1) Promotions to the grades of captain, major, and lieutenant colonel shall continue to be made under existing law until December 31, 1947. During the period January 1, 1948, to June 30, 1948, there shall be no permanent grade promotion appointments of Regular Army promotion-list officers to the grade of captain, major, or lieutenant colonel. On July 1, 1948, or at the earliest practicable time thereafter, the Regular Army officers specified in subsection (b) of this section and those recommended for promotion by selection boards as provided in subsection (c) of this section shall be promoted to and appointed in the Regular Army in the grades of captain, major, and lieutenant colonel.

(2) Officers appointed in the same grade under the provisions of this section shall have their names entered on the applicable promotion list immediately below that of the junior of the list holding office in that grade without change among themselves in their relative permanent grades seniority standing existing prior to such appointments.

(3) The numbers to be selected and recommended for each of the several grades for each of the several promotion lists under the provisions of this section may be less, but shall not be more, than numbers which will produce the total numbers authorized in each of such grades in each promotion list.

(4) Officers named for consideration for any grade but not selected for that grade by a selection board under the provisions of this section shall not for any purpose be deemed to have failed of selection.

(5) The name of any officer recommended for promotion to any grade by a selection board under the provisions of this section may be removed from the recommended list for that grade by the President, and entered by him on the recommended list for any lower grade above that in which the officer is holding appointment, or he may remove it entirely.

(6) The procedure prescribed in this section shall be taken separately for each of the several promotion lists.

(7) The phrase "years' service" as used in this section means and includes all service creditable for promotion purposes under the law prior to August 7, 1947, and the service credited under section 559h of this title.

(b) Officers eligible for promotion; report by selection board.

The appointments referred to in subsection (a) of this section shall include appointments in permanent grades of captain, major, and lieutenant colonel, respectively, of all promotion-list officers (not appointed in higher permanent grades under the provisions of subsection (c) of this section) in permanent grades of first lieutenant, captain, and major who on June 30, 1948, will have completed seven, fourteen, and twenty-one or more years' serv-

ice, respectively. Each selection board considering officers for promotion under the provisions of subsection (c) of this section, which has among the names furnished to it for consideration the names of any officers who on June 30, 1948, will have completed the years' service specified in this subsection for promotion to the grade for which selections are being made by such board, shall report the names of such officers for promotion to that grade and the number which the board is instructed to select and recommend for that grade shall be reduced accordingly.

(c) Procedure; recommended list; date of appointment.

For the purpose of initially filling permanent grade requirements in each of the several promotion lists in grades of lieutenant colonel, major, and captain (appointments to be made on July 1, 1948, or at the earliest practicable time thereafter), based upon the number of vacancies in any promotion list in these grades, the Secretary of the Army, in his discretion, may either (1) direct a selection board to consider officers in the grades of major, captain, and first lieutenant, respectively, in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade of lieutenant colonel, major, or captain, respectively, pass over those who are not fully qualified for promotion to these grades, and continue such procedure until a specified number of recommended officers is obtained for each such grade; or, (2) furnish to a selection board a list of the officers to be considered for promotion to the grade concerned and direct such board to select and recommend from among those listed a specified number for promotion to that grade, the officers to be selected to be the best qualified of those listed for consideration. The names of officers who are recommended for promotion to the grades of lieutenant colonel, major, and captain, respectively, shall be entered on a recommended list (a separate list for each grade in each promotion list). The officers recommended for promotion shall be appointed in the grades for which recommended on July 1, 1948, or at the earliest practicable date thereafter.

(d) Officers included in selection board lists.

If the Secretary of the Army, in his discretion, follows the second procedure described in subsection (c) of this section for any grade in any promotion list, the names furnished to the applicable selection board shall be those of the officers hereinafter specified:

(1) For the grade of lieutenant colonel, the names furnished to the selection board concerned shall include the name of the senior officer of that promotion list in permanent grade below lieutenant colonel, and the names of such additional officers in the order that their names appear next below his on that promotion list, as the Secretary of the Army may prescribe, and in addition thereto, may include the names of any officers of that promotion list who served during the current war in any general officer grade under temporary appointment.

(2) For the grade of major, the names furnished for consideration to the selection board concerned shall include the names of all officers of the designated promotion list in permanent grades below that of major named for consideration but not selected for the grade of lieutenant colonel and the names of such additional officers in the order that their names appear next on that promotion list, as the Secretary of the Army may prescribe, and in addition thereto may include the names of any officers of that promotion list who served during the current war in any general officer grade under temporary appointment.

(3) For the grade of captain, the names furnished for consideration under the provisions of this section shall include the names of all officers of the designated promotion list in permanent grades below that of captain named for consideration but not selected for the grades of major or lieutenant colonel, and the names of such additional officers in the order that their names appear next on that promotion list, as the Secretary of the Army may prescribe. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 518, 61 Stat. 910.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559j. Women's Army Corps; establishment of promotion list; promotion-list officers.

The Women's Army Corps promotion list described in section 559 of this title, shall be established as soon as officers are appointed in the Women's Army Corps of the Regular Army under the provisions of section 559o of this title. The names of all officers appointed under the provisions of section 559o of this title shall be placed on such promotion list immediately below those officers of the same grade having the same or next greater period of service for promotion purposes.

Commissioned officers of the Women's Army Corps of the Regular Army are promotion-list officers and they shall be included among officers referred to by that term in all provisions of law relating to promotion-list officers generally, unless otherwise specifically provided. (June 12, 1948, ch. 449, title I, § 104 (e), (f), 62 Stat. 359.)

CODIFICATION

Section comprises subsections (e) and (f) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559k. Same; termination of commission.

The Secretary of the Army, under the circumstances and in accordance with regulations prescribed by the President, may terminate the commission of any officer appointed in the Women's Army Corps. (June 12, 1948, ch. 449, title I, § 104 (h), 62 Stat. 359.)

CODIFICATION

Section comprises subsection (h) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559l. Same; permanent grade promotions held in abeyance.

There shall be no permanent grade promotions in the Women's Army Corps of the Regular Army to the grades of captain, major, or lieutenant colonel until the making of promotions to fill initial requirements in these grades in accordance with the provisions of section 559m of this title. (June 12, 1948, ch. 449, title I, § 104 (i), 62 Stat. 360.)

CODIFICATION

Section comprises subsection (i) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559m. Same; permanent grade promotion.

Permanent grade promotions to fill initial requirements in the Women's Army Corps promotion list in the grades of captain, major, and lieutenant colonel shall be made on that date which is fifteen months after June 12, 1948, or at the earliest practicable time thereafter under provisions identical to those contained in section 559i of this title except that the first two sentences of paragraph (1) of subsection (a) thereof shall not apply and in the remainder of said section, insofar as promotions in the Women's Army Corps of the Regular Army are concerned, wherever the date "July 1, 1948" appears and wherever the date "June 30, 1948" appears there shall be substituted in lieu thereof that date which is fifteen months after June 12, 1948, and, insofar as promotions of officers of the Women's Army Corps of the Regular Army to the grade of lieutenant colonel are concerned, the provisions of section 559i (b) of this title shall not apply and, insofar as promotions in the Women's Army Corps of the Regular Army are concerned, the phrase "years' service" as used therein shall mean the amount of service credited to persons appointed in the Women's Army Corps of the Regular Army under the provisions of section 559o of this title at time of appointment increased by the period of active commissioned service in the Regular Army performed by such persons subsequent to appointment. (June 12, 1948, ch. 449, title I, § 104 (j), 62 Stat. 360.)

CODIFICATION

Section comprises subsection (j) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559n. Same; suspension of promotions.

After the making of promotions to fill initial requirements prescribed in section 559m of this title, all permanent grade promotions in the Women's Army Corps of the Regular Army to the grades of captain, major, and lieutenant colonel shall be suspended until that date which is twenty-four months after June 12, 1948, and at that time sections 559c and 559c—1 of this title, shall become effective for permanent grade promotions of officers of the Women's Army Corps of the Regular Army to the grades of captain, major, and lieutenant colonel. (June 12, 1948, ch. 449, title I, § 104 (k), 62 Stat. 360.)

CODIFICATION

Section comprises subsection (k) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559o. Same; appointments in grades; qualifications; service credits; computation of service; enactment service limitation; continuous service credit.

(a) At any time not later than a date two years following June 12, 1948, the President is authorized to appoint officers in the Women's Army Corps of the Regular Army, by and with the advice and consent of the Senate, in the grades of second lieutenant, first lieutenant, captain, and major, subject to the conditions and limitations hereinafter set forth. Persons appointed under the provisions of this section shall—

(1) be female citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military service, and have such other qualifications as may be prescribed by the Secretary of the Army; and shall

(2) have served honorably in the active Federal service as commissioned officers in the Women's Army Corps of the Army of the United States at some time between July 1, 1943, and June 12, 1948.

(b) Each person appointed as a commissioned officer of the Women's Army Corps of the Regular Army under the provisions of this section shall be credited, at the time of appointment, with service equivalent to the total period of active Federal service performed by her after attaining the age of twenty-one years as a commissioned officer in the Army of the United States from July 1, 1943, to the date of such appointment, or a period of service equal to the number of days, months, and years by which her age at the time of such appointment exceeds twenty-five years, whichever period is the greater: *Provided*, That in computing the total period of active commissioned Federal service of any such person who was honorably discharged or relieved from active service subsequent to May 12, 1945, there shall also be credited the period from the date of her discharge or relief from active service to the date of her appointment in the Women's Army Corps of the Regular Army under the provisions of this section.

(c) For the purpose of determining the grade in which each such person shall be originally appointed under the provisions of this section, a computation shall be made of the amount of service with which each such person would have been credited as of June 12, 1948, under the provisions of subsection (b) of this section had she been appointed in the Women's Army Corps of the Regular Army under the provisions of this section on that date. The amount of service so computed for each such person is hereinafter referred to as the amount of such person's "enactment service." Persons appointed in the Women's Army Corps of the Regular Army with less than three years "enactment service" shall be appointed in the grade of second lieutenant; persons with three or more years "enactment service," but less than seven years "enactment service," shall be appointed in the grade of first lieutenant; persons

with seven or more years "enactment service," but less than fourteen years "enactment service," shall be appointed in the grade of captain; and persons with fourteen or more years "enactment service," but less than twenty-one years "enactment service," shall be appointed in the grade of major: *Provided*, That no person appointed in the Women's Army Corps of the Regular Army under the provisions of sections 316-316e, 378, 506, 559, 559a, 559c, 559c-1, 559j-559o, 591-1, 621b, and 941a of this title shall be entitled, by reason of such appointment, to any pay or allowances for any period prior to the date of acceptance of such appointment.

(d) No person with twenty-one or more years "enactment service" shall be appointed as a commissioned officer of the Women's Army Corps of the Regular Army under the provisions of this section.

(e) For the purpose of determining eligibility for promotion, each person appointed as a commissioned officer in the Women's Army Corps of the Regular Army under the provisions of this section shall be credited, as of the time of such appointment, with continuous commissioned service on the active list of the Regular Army equal to the period of service credited to her under subsection (b) of this section. (June 12, 1948, ch. 449, title I, § 108, 62 Stat. 361.)

ELIMINATION OF OFFICERS FROM SERVICE

§ 571. Repealed. June 29, 1948, ch. 708, title I, § 109, 62 Stat. 1084.

Section related to the annual classification and retirement of discharge of officers in Class B and is now covered by section 580-587 of this title.

REPEALS

Act July 29, 1941, ch. 326, 55 Stat. 606, which provided for suspension of section until July 1, 1948, and the removal of officers from the active list during the emergency was repealed by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, eff. July 1, 1948, and again repealed by act June 29, 1948, ch. 708, title I, § 109, 62 Stat. 1084.

§ 576a. Same; office of Administrator of General Services.

TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949, ch. 288, title 1, 63 Stat. 380. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of said act. Said section 103 is set out as section 213 of Title 41, Public Contracts.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions as effective July 1, 1949, see note set out under section 201 of Title 41, Public Contracts.

§ 580. Removal of officers from active list of Regular Army or Regular Air Force.

Notwithstanding any other provision of law, the Secretary of the Army and the Secretary of the Air Force, for their respective services, are authorized, for such causes as each may deem satisfactory, to remove any commissioned officer from the active list of the Regular Army or the Regular Air Force, as the case may be, in the manner hereinafter prescribed. (June 29, 1948, ch. 708, title I, § 101, 62 Stat. 1081.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

SHORT TITLE

Congress in enacting sections 580-587, 594, 971b, 1001-1007, and 1036-1036i of this title, section 186 of Title 14, and sections 440h-440q of Title 34, provided by section 1 of act June 29, 1948, cited to text, that they should be popularly known as the "Army and Air Force Vitalization and Retirement Equalization Act of 1948."

§ 581. Selection board; composition; annual meetings; duties.

Immediately following June 29, 1948, and once annually thereafter, the Secretary of the Army and the Secretary of the Air Force shall, for their respective services, each convene a selection board of five general officers, which shall review the records of all officers on the active list of the Regular Army or the Regular Air Force, as the case may be, to determine which of such officers shall be required to show cause why they should be retained on the active list. Selection of any officer to show cause for retention shall be based upon his failure to achieve such standards of performance as the cognizant Secretary shall by regulations prescribe. (June 29, 1948, ch. 708, title I, § 102, 62 Stat. 1081.)

§ 582. Board of Inquiry; composition; hearings; findings and recommendations; closing of cases.

Any officer selected to show cause for retention shall be accorded a fair and impartial hearing before a Board of Inquiry, consisting of not less than three general officers, convened at such place or places as the cognizant Secretary may prescribe to receive evidence and to make findings and recommendations as to the officer's fitness to be retained on the active list. If the Board of Inquiry recommends the retention of any officer on the active list, his case shall thereupon be closed and shall not be subject to further action, except that such officer may again be selected to show cause for retention at any future time in accordance with the provisions of section 581 of this title. (June 29, 1948, ch. 708, title I, § 103, 62 Stat. 1081.)

§ 583. Board of review; composition; meetings; duties; transmission of record to Secretary; finality of Secretary's action; application for honorable discharge or voluntary retirement.

The Board of Inquiry shall forward the record of its proceedings in each case in which it recommends the removal of any officer from the active list to a board of review, consisting of not less than five general officers, convened by the cognizant Secretary at such time as he deems appropriate, to review each such case and make recommendations as to the retention of the officer concerned on the active list. If the Board of Review recommends the retention of any officer on the active list, his case shall thereupon be closed and shall not be subject to further action, except that such officer may again be selected to show cause for retention at any future time in accordance with the provisions of section 581 of this title. If the Board of Review recom-

mends against the retention of any officer on the active list, such recommendation shall be transmitted to the cognizant Secretary for his action thereon. The action of the Secretary of the Army or the Secretary of the Air Force, as the case may be, in removing any officer from the active list shall be final and conclusive: *Provided*, That at any time prior to his removal from the active list the application of any officer for honorable discharge or voluntary retirement under sections 580–587, 594, 971b, 1001–1007, and 1036–1036i of this title or any other provision of law may, if the applicant is otherwise qualified therefor, be granted by the cognizant Secretary: *Provided further*, That any officer discharged on his own application under the provisions of this section shall be granted severance benefits as provided in section 585 (b) of this title. (June 29, 1948, ch. 708, Title I, § 104, 62 Stat. 1081.)

§ 584. Written notice to officer of pendency of removal proceedings; appearance; access to records; limitation on membership on boards.

Any officer who is under consideration for removal from the active list shall be furnished written notice of the pendency of any proceedings for his removal, shall be afforded reasonable time for the preparation of his defense, shall be allowed to appear in person or by counsel at proceedings before any Board of Inquiry or any Board of Review, and shall, at all stages of the proceedings, be allowed full access to and furnished copies of records relevant to his case. No person shall sit as a member of more than one of the boards convened under sections 581, 582, or 583, of this title in the consideration of the case of the same officer. (June 29, 1948, ch. 708, title I, § 105, 62 Stat. 1082.)

§ 585. Removed officers; eligibility for voluntary retirement or honorable discharge; rate of retired pay or gratuities.

Each officer removed from the active list of the Regular Army or the Regular Air Force pursuant to sections 580–587 of this title shall—

(a) if on the date of removal he is eligible for voluntary retirement under any provision of law then in effect, he shall be retired in the grade and with the retired pay to which he would be entitled if he were retired upon his own application;

(b) if on the date of removal he is not eligible for voluntary retirement, be honorably discharged in the grade then held, with severance pay equal to one month's base and longevity pay, being received at the date of such removal, multiplied by the number of years of his active Federal commissioned service: *Provided*, That the total severance pay shall not exceed one year's base and longevity pay so computed: *Provided further*, That a fractional part of a year amounting to six months or more shall be counted as a complete year for the purpose of computing amount of severance pay only. (June 29, 1948, ch. 708, Title I, § 106, 62 Stat. 1082.)

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§ 586. Review of records of officers removed prior to June 29, 1948—Transmission of records to Board of Review; notification of reference; appearance; transmission of findings to Secretary.

(a) Immediately following June 29, 1948, the Secretary of the Army and the Secretary of the Air Force, for their respective services, shall transmit the records of all proceedings in the case of each person heretofore removed from the active list of the Regular Army or the Regular Air Force, as the case may be, pursuant to the provisions of section 2 of the joint resolution of July 29, 1941 (55 Stat. 606), to a Board of Review convened under section 583 of this title. Each person so removed shall be notified of the reference of his case to such Board of Review, and shall be accorded opportunity to appear before the board in person or by counsel. After full and fair consideration of all the facts and circumstances of each such case as they existed at the time of removal, the board shall transmit to the Secretary of the Army or to the Secretary of the Air Force, as appropriate, a report thereon containing its findings of fact, its conclusion on the question whether such removal was justified, and its recommendation on the question whether the officer affected should be restored to the active list pursuant to the provisions of this section.

(b) Transmission of restoration recommendation to President; appointment to active list of commissioned officers; grades appointed to.

In each such case in which the Secretary of the Army or the Secretary of the Air Force approves a recommendation for the restoration of any person to the active list of the Regular Army or the Regular Air Force, he shall transmit the record of proceedings to the President, who is authorized and requested to appoint such person, by and with the advice and consent of the Senate, as a commissioned officer on the active list of the Regular Army or the Regular Air Force, as the case may be, in a grade determined by the following schedule: Officers with less than three years of service for promotion purposes shall be appointed in the grade of second lieutenant; those with three or more, but less than seven years of such service, shall be appointed in the grade of first lieutenant; those with seven or more, but less than fourteen years of such service, shall be appointed in the grade of captain; those with fourteen or more, but less than twenty-one years of such service, shall be appointed in the grade of major; those with twenty-one or more, but less than twenty-eight years of such service, shall be appointed in the grade of lieutenant colonel: *Provided*, That (a) those with more than twenty-eight years of service for promotion purposes who are under sixty years of age shall be appointed to the active list in the permanent grade of lieutenant colonel and—

(A) shall until June 30, 1953, be eligible for selection to the permanent grade of colonel; and

(B) if not selected and promoted to the grade of colonel or retired under any other provision of law on or before June 30, 1953, shall on such date be retired in the highest grade to which he is entitled under any provision of law; or

(C) if promoted to the grade of colonel on the active list prior to such date, shall be retired under the laws applicable to the elimination and retirement of permanent colonels; and

(b)¹ Advancement to grade of colonel on retired list; pay; promotion list; service credit; finality of Secretaries' decisions.

Those with more than twenty-eight years of service for promotion purposes who are sixty years of age or over shall be advanced on the retired list to the grade of colonel, and shall be entitled to receive the retired pay to which they would have been entitled if they had not been removed from the active list under the provisions of section 2 of the joint resolution of July 29, 1941 (55 Stat. 606), but had been retired while serving in the permanent grade of colonel at the completion of twenty-eight years of service for promotion purposes. Each officer restored to the active list, and appointed in a grade as prescribed in this section, shall have his name placed on the appropriate promotion list among the officers of his grade in the same seniority standing as would have existed had such officer been continued on the active list. For promotion purposes and initial grade determination each officer so restored to the active list shall, upon appointment, have credited to him all service which he would have had if he had not been removed from the active list pursuant to the provisions of section 2 of the joint resolution of July 29, 1941 (55 Stat. 606). In all other cases the action taken by the Secretary of the Army or the Secretary of the Air Force, for their respective services, shall be final and conclusive for all purposes. The cognizant Secretary shall transmit to each person affected a copy of the report made by the Board of Review in his case and written notice as to the disposition thereof.

(c)² Determination of length of commissioned service of restored officers; rights and benefits.

In determining length of active Federal commissioned service for all purposes of pay, allowances, appointment, promotion, and retirement, each person restored to the active list of the Regular Army or the Regular Air Force pursuant to the provisions of this section shall be deemed to have served as an officer on the active list of the service concerned from the date of his removal therefrom to the date of his restoration thereto, and upon restoration shall be carried as an additional number in the grade in which restored to the active list or in any grade to which he thereafter may be promoted. Each officer so restored shall be accorded all other rights, benefits, and privileges to which he would have been entitled if he had not been removed from the active list, except those based upon active service in time of war or emergency not in fact performed by him.

(d)³ Application for retirement; placement on retired list; grade, pay, and benefits.

Each officer of the Regular Army heretofore removed from the active list pursuant to the provisions of section 2 of the joint resolution of July 29, 1941

(55 Stat. 606), who on the date of such removal was (a) eligible for voluntary retirement under any provision of law then in effect, or (b) shall be determined by retiring board action to have been eligible for retirement for disability on such date, shall upon application therefor be placed upon the retired list in the grade and with the retired pay and other benefits to which he would have been entitled if he had been so retired: *Provided*, That no officer restored to the active list pursuant to the provisions of this section shall be retired pursuant to the provisions of this subsection. (June 29, 1948, ch. 708, title I, § 107, 62 Stat. 1082.)

REFERENCES IN TEXT

Section 2 of the joint resolution of July 29, 1941 (55 Stat. 606) referred to in the text was formerly classified to section 571 note of this title and was repealed by act June 29, 1948, ch. 708, title I, § 109, 62 Stat. 1084.

VALIDATION OF RIGHT AND BENEFITS ACCRUED UNDER FORMER SECTION 571 OF THIS TITLE AND JOINT RES. JULY 29, 1941, 55 STAT. 606

Section 109 of act June 29, 1948, cited to text, retained in force and effect all rights and benefits accrued under former section 571 of this title and Joint Res. July 29, 1941, 55 Stat. 606, prior to June 29, 1948.

§ 587. Regulations; accrual of back pay, allowances, or compensation.

(a) The Secretary of the Army and the Secretary of the Air Force may promulgate for their respective services such regulations as may be necessary to carry into effect the provisions of sections 580–586 of this title.

(b) No back pay, allowances, or compensation shall accrue to any person by reason of the enactment of any provision of sections 580–586 of this title. (June 29, 1948, ch. 708, title I, § 108, 62 Stat. 1084.)

Chapter 22.—WARRANT OFFICERS

Sec.

591—1. Same; Women's Army Corps; laws applicable; termination of warrant [New].

§ 591. Permanent appointments; number authorized.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 591—1. Same; Women's Army Corps; laws applicable; termination of warrant.

(a) Under such regulations as the Secretary of the Army may prescribe, female citizens of the United States may be appointed warrant officers in the Women's Army Corps of the Regular Army in each of the several warrant officer grades under the provisions of law now or hereafter applicable to the appointment of male persons in such warrant officer grades in the Regular Army and all laws now or hereafter applicable to warrant officers of the Regular Army shall be applicable to such warrant officers.

(b) The Secretary of the Army, under such regulations as he may prescribe, may terminate the appointment of any warrant officer appointed in the Women's Army Corps. (June 12, 1948, ch. 449, title I, § 105, 62 Stat. 360.)

¹ So in original. Probably should read "(c)".

² So in original. Probably should read "(d)".

³ So in original. Probably should read "(e)".